

AT A REGULAR MEETING OF THE CULPEPER COUNTY BOARD OF SUPERVISORS HELD IN THE BOARD ROOM, LOCATED AT 302 N. MAIN STREET, ON TUESDAY, JANUARY 5, 2010.

**Board Members Present:**

***Brad C. Rosenberger, Chairman***

***Larry Aylor, Vice-Chairman***

William C. Chase, Jr.

Sue D. Hansohn

Steven E. Nixon

Tom S. Underwood

Steven L. Walker

**Staff Present:**

Frank T. Bossio, County Administrator

Roy B. Thorpe, Jr., County Attorney

John C. Egertson, Planning Director

Sam McLearn, Zoning Administrator

Donna Foster, Deputy Clerk

Barry Atchison, Assistant to the Deputy Clerk

**CALL TO ORDER**

Mr. Rosenberger, Chairman, called the meeting to order at 7:00 p.m.

**CITIZEN FORUM**

Mr. Rosenberger opened the Citizen Forum and called for comments on any item that was not on the agenda.

With no one wishing to comment, Mr. Rosenberger closed the Citizen Forum.

**AGENDA ADDITIONS AND/OR DELETIONS**

Mr. Rosenberger called for additions and/or deletions to the agenda

Mr. Aylor moved, Mr. Underwood seconded, to approve the agenda as presented.

Mr. Rosenberger called for voice vote.

Ayes – Aylor, Chase, Hansohn, Nixon, Rosenberger, Underwood, Walker

Motion carried 7 to 0.

**PUBLIC HEARING (S)** - *(There were no public hearings for General County Business.)*

**NEW PLANNING COMMISSION BUSINESS – PUBLIC HEARING**

**CASE NO. U-2160-09-1.** Request by Inskeep Investments, L.C. for approval of a use permit for the purpose of operating a private club (shooting range). The property is located off Route 15 in the Cedar Mountain Magisterial District and contains 130.5 acres. Tax Map/Parcel No. 61/37.

Mr. McLearen, Zoning Administrator, introduced the case and noted the Planning Commission heard the case after proper advertising and public hearing held on December 9, 2009. The Planning Commission approved recommending to the Board of Supervisors that the case be approved with conditions.

Mr. Egertson provided background information noting it was a request for a conditional use permit to allow the operation of a private club, the Cedar Mountain Youth, Inc., which is a shooting range on the Inskeep property. Mr. Egertson stated it was his understanding that the club was formed in 1990 for the purpose of training and educating youth on the use of firearms. He noted the shooting range primarily consisted of a shelter built by volunteers and a range that features a larger berm and backstop. The firing range was operated as a private venture, which was noncommercial and nonprofit. No fees were charged for use of the shooting range; however, it does operate off of donations from various entities.

Mr. Egertson explained the range is used by various entities, law enforcement agencies as a method of fund raising for Cedar Mountain Youth. Club members, Boy Scouts and others also use it. It does serve a community need; however, that need must be balanced against the impact on the surrounding area. Mr. Egertson pointed out the narrative history of the activities were included in the packet. He noted fairly recently there had been some complaints received by his office about the use of the range and the legality of the range was called into question.

Mr. Egertson stated County representatives had met with Mr. Dodson, the range operator, and the Inskeeps, property owners, and had visited the facility. He said they were able to determine that while the range has been in use for many years, it is not considered a legal nonconforming or grandfathered use, because it does not predate the County's zoning ordinance. Therefore, the Inskeep family was advised that it would be appropriate for them to seek a conditional use permit to bring the facility into compliance. He noted after meeting with Mr. Dodson and Mr. Charlie Barrell, the applicant's representative, several times, the conditions and terms of the requested conditional use permit were prepared and extensively reviewed through the Planning Commission process. He stressed that the conditions that had been recommended by the Planning Commission had been created in close consultation with the applicants.

Mr. Egertson noted the recommendation from the Planning Commission was before the Board for approval. He reviewed the eleven conditions:

**1. Use Permit for Private Club**

The use permit in case number U-2160-09-1 is specifically to permit a private shooting range. The range shall not be open to use by the general public. Use shall be limited to the following organizations and government entities: Cedar Mountain Youths, Inc., to include groups who use the facility through Cedar Mountain Youths educational programs. Public law enforcement agencies shall be permitted to use the facility as a fundraising activity of Cedar Mountain Youths, Inc. only in accordance with the hours of operation set forth in number 2 below. This condition shall not be construed to limit private use by the property owner.

**2. Hours of operation**

The discharge of firearms at the shooting range by any entity, other than personal use by the property owner shall be strictly limited to daylight hours and shall be limited as set forth below:

The use of the facility on weekends shall be limited to the Cedar Mountain Youths, Inc., to include educational programs they provide and fundraising activities exclusive of law enforcement agencies. The discharge of firearms on weekends shall be limited to the hours of 8:00 a.m. to one half hour after sunset on Saturday and 12:00 p.m. to 5:00 p.m. on Sundays, except that skeet shooting and sporting clays limited to shotgun use may commence at 10:00 a.m. on Sundays.

Use of the facility during the week shall be limited to use by the Cedar Mountain Youths, Inc. Public law enforcement agencies which obtain permission to use the facility as a means of fundraising for Cedar Mountain Youths, Inc. may do so as scheduled on weekdays only. Use by public law enforcement agencies shall not occur more than four days in any calendar month. Discharge of firearms on weekdays shall be limited to the hours of 9:00 a.m. to one half hour after sunset.

**3. Limited Area**

Firing of weapons and all other activity shall be limited to an established area only. Skeet shooting, archery, a sporting clays course, and two shooting ranges are contained within and shall be permitted in the established area. These areas are depicted on Exhibit A, attached. This condition shall not be construed to prohibit the applicant's ability to lawfully hunt anywhere on the subject property.

The range itself shall remain as it is currently located, and no expansion beyond the areas depicted on Exhibit A shall be permitted.

**4. Safety Standards**

The shooting range shall be operated in a safe manner at all times. All safety standards and practices established by the Range Rules (attached) shall be adhered to, and a properly certified range safety officer shall be on hand at all times when three or more persons are firing.

**5. Required Improvements**

Access: Within six (6) months from the date of approval of this use permit, entrance improvements shall be installed in accordance with VDOT recommendations.

Range Improvements: Within sixty (60) days of the date of approval of this use permit, the backstops/berms of actively used firing ranges shall be raised to a total height of twenty (20) feet. Side berms of the ranges shall be raised to a total height of twelve (12) feet. Within six (6) months baffles shall be installed which will serve to prevent any escape of bullets from the range area.

**6. Insurance**

A liability insurance policy of at least \$2 million shall be maintained at all times for as long as this use permit remains valid.

**7. Automatic Weapons Prohibited**

Discharge of any automatic weapons at the facility by anyone other than for personal use by the property owner or by the Virginia State Police is prohibited.

**8. Safety Review**

Within 60 days from the date of approval of this use permit, the applicants shall cause to have performed a safety inspection and review of the facility by a qualified third party. Such third party must be approved by Culpeper County Department of Development staff and a written summary of findings shall be submitted to the County. The applicant shall implement any proposed improvements deemed necessary by the review in order to insure the safe use of the range.

**9. Record Keeping**

The operator or owner of the facility shall be responsible for keeping a written log in which all use of the range shall be recorded. These records shall be open to inspection by County staff immediately upon request.

**10. Noise Abatement**

Within 30 days from the date of approval of this use permit, the applicant shall provide additional noise abatement by placing large hay bales, at least six feet in height behind the firing range, in front of the parking lot, as generally indicated on Exhibit A.

**11. Use Permit Conditions Take Precedence**

In the event that these use permit conditions may differ from or conflict with the Range Rules, the use permit conditions shall take precedence.

Mr. Egertson reemphasized that the Planning Commission reviewed and recommended the conditions and at the time of the Commission's meeting, it was their understanding that the applicant was satisfied with the conditions and they were workable.

He noted there were a number of letters and comments received from citizens and these had also been included in the packet as background material for the case.

Mr. Rosenberger asked if the members had questions for staff.

Mr. Chase asked why the law enforcement agencies were being limited to no more than four days per calendar month. Mr. Egertson stated it was related to how the activity at the range had increased to include many agencies and the neighbors had complained and offered comments at the Planning Commission meeting. He recalled all of the residents that had complained had stated they had no objection to the existence of the range or its use by Cedar Mountain Youths, but the level of activity had gotten so high with all the other law enforcement agency use.

Mr. Chase also questioned prohibiting automatic weapons use to the owners and/or the State Police, which seemed to conflict with Number 12 on the range safety rules. Mr. Egertson noted that Condition Number 11 stated anywhere there is a conflict with the range rules; the use permit conditions shall take precedence. Mr. Chase asked why the requirement to have a logbook. Mr. Egertson stated with the extensive list of conditions there needed to be a way to at least check the records to make sure the conditions are being adhered to. He noted the logbook was already a common practice and being used by the Club. Mr. Chase stated he had previously voiced his concern with having too much government control. Mr. Egertson stated he understood.

Mr. Nixon asked if all automatic weapons, including an automatic .22 rifle, which the youth might want to use. Mr. Egertson stated that the applicants had indicated this was already one of their range rules and they only waived that rule for the law enforcement agencies, but the purpose was to limit it as much as possible based on the noise factor.

Mr. Nixon questioned, and Mr. Egertson explained that any law enforcement agency could use the range as long as it does not exceed the four days per month. Mr. Nixon believed the four days seemed a bit arbitrary. Mr. Egertson explained that the number chosen was based on Mr. Dodson's testimony at the Planning Commission meeting regarding the limited use by the law enforce groups. He believed the intent was that with appropriate

scheduling they could continue to use the range and the neighbors in the area would be able to depend on it being a limited amount of time.

Mr. Nixon stated with the limited usage also came a limited amount of money that could be raised and there were modifications being required which someone had to pay for. He said his understanding is that the Inskeep Family does not contribute nor derive income from the range and that it was volunteer funded. Mr. Nixon stated he had a problem with this scenario.

Mr. Egertson stated the Planning Commission strived to reach a balance, because there were neighbors at their meeting who said the noise was unbearable and one said the ammunition had reached his property and it was a danger. This was why the baffles were put in as a condition and the applicant did not dispute it in any manner. The Commission wanted to make certain that a) it was safe, and b) the use was not so intense that he was a nuisance.

Mr. Nixon stated if the noise was unbearable then it would be so for four days a month. Mr. Egertson agreed and noted; however, this would be better than it occurring thirty days a month.

At Mr. Chase's request, Mr. Egertson briefly described how the baffles would be constructed. He noted Mr. Dodson was more familiar and could further discuss this if needed. Mr. Chase stated he would like to see the design, but would rely on Mr. Dodson's opinion.

Mr. Thorpe discussed the provision in the permit that stated that the use permit was to operate a private shooting range and read what that included and questioned if the written permission slips that had been granted to private individuals to use the facility operated by Cedar Mountain Youth, Inc. would all of those permission slips be null and void. Mr. Egertson stated that was not the intent of the permit.

Mr. Thorpe suggested that needed to be clarified to say that Cedar Mountain Youth and invitees, so the individuals that are not part of a specific group would still be allowed to use the facility. Mr. Egertson stated if that made it cleaner it was okay with him.

Mr. Rosenberger stated if there were no other questions of staff, he would recognize the applicant.

Mr. Charles Barrell, Attorney, stated he was representing the applicant and was also a member of the Inskeep Investments, L.C. He noted they would like to address specific conditions with the Board. He distributed a copy of their proposed changes and noted the Club had provided a lot of service to the County over the past twenty years, thanks due to Mr. Dodson and a few members of the Club. He noted the conditions had been further considered over the past month it was believed that some of the conditions posed quite an impact on some of the Club's activities. He outlined and explained why the proposed changes were being requested:

**Hours of operation:** The use of the facility on weekends shall be limited to the Cedar Mountain Youths, Inc., to include educational programs they provide and fundraising activities exclusive of law enforcement agencies. The discharge of firearms on weekends shall be limited to the hours of 8:00 a.m. to one half hour after sunset on Saturday and 10:00 p.m. to 5:00 p.m. on Sundays, ~~except that skeet shooting and sporting clays limited to shotgun use may commence at 10:00 a.m. on Sundays.~~

Use of the facility during the week shall be limited to use by the Cedar Mountain Youths, Inc. Public law enforcement agencies which obtain permission to use the facility as a means of fundraising for Cedar Mountain Youths, Inc. may do so as scheduled on weekdays only. Use by public law enforcement agencies shall not occur more than ~~four~~ **twelve** days in any calendar month. Discharge of firearms on weekdays shall be limited to the hours of 9:00 ~~8:00~~ a.m. to one half hour after sunset.

Mr. Barrell noted some of the youth and fund activities start at noon; however, there were some activities like skeet shoots that start earlier. He discussed the use of the range by the law enforcement agencies and how limiting them to four days a month would cramp their ability to schedule. He stressed that over the course of the year they did not use the range that much. Mr. Barrell believed some of the complaints came about when a private security agency group came over from the Piedmont Technical Center and there had been some intensive use of the range during the past summer.

**4. Safety Standards:** The shooting range shall be operated in a safe manner at all times. All safety standards and practices established by the Range Rules (attached) shall be adhered to, ~~and a properly certified range safety officer shall be on hand at all times including~~ **designation of a range officer** when three or more persons are firing.

Mr. Barrell stated they had discussed with the Planning Commission that there would be a financial burden on the Club to have to pay a certified safety officer; therefore, they would like the proposed change to be made. He noted none of the complaints were due to safety problems and they wanted to keep it that way.

**5. Required Improvements:** Range Improvements: Within sixty ~~(60)~~ **(90)** days of the date of approval of this use permit, the backstops/berms of actively used firing ranges shall be raised to a total height of twenty (20) feet. Side berms of the ranges shall be raised to a total height of twelve (12) feet. Within ~~six (6)~~ **nine (9)** months baffles shall be installed which will serve to prevent any escape of bullets from the range area.

Mr. Barrell stated they had hoped to have some of the work performed already; however, due to the weather the work had been delayed. He did not believe they could get the work done by the first of March; therefore, an extension of time was being requested.

**6. Insurance:** A liability insurance policy of at least \$2- **1 million each occurrence and \$2 million general aggregate** shall be maintained at all times for as long as this use permit remains valid.

**7. Automatic Weapons Prohibited:** Discharge of any automatic weapons at the facility by anyone other than for personal use by the property owner or by ~~the Virginia State Police-~~ **governmental law enforcement agencies** is prohibited.

Mr. Barrell noted that all law enforcement agencies' personnel have to be certified with the weapons they use and need to practice. He noted they usually fire in small controlled bursts. He discussed the agencies using the range and which ones need to certify with automatic weapons.

He noted the bottom line was that the range had existed for twenty years and had operated safely for that length of time. He noted training individuals on the safe use of firearms was the reason for having the range in the first place. He noted David Willis, a NRA

qualified range designer, had offered his assistance and he and Mr. Dodson were present to answer questions.

Mr. Chase asked if raising the berm/baffles to over 20 feet seemed to be overdoing it. Mr. Barrell explained that this was from the NRA range book recommendations.

Mr. Nixon questioned the purpose of the sixty-day safety review. Mr. Barrell stated that the Planning Commission heard a couple of neighbors' complaints and felt this was the best way to address their concerns. He believed this safety review would be without cost.

Mr. Chase asked if the Board approved all the proposed changes to the conditions would this satisfy the applicants. Mr. Barrell stated he believed they could live with the conditions with the changes proposed. He noted that there were members of the community that were willing to help with the improvements.

Mr. Thorpe referred back to his question on honoring the permission slips that had been granted to private individuals. Mr. Barrell stated it was their intent to do so and he would like for this to be clarified as well. He noted that the applicants had not intended to alter this ability in anyway. He believed Mr. Thorpe's suggestion of adding the wording "and invitees" in the first condition as follows: "Use shall be limited to the following organizations and government entities: Cedar Mountain Youths, Inc. **and their invitees**,..."

Mr. Rosenberger opened the public hearing and called for public comments.

Ray Butler, resident of Cedar Mountain District, he noted where he lived there was more of a chance of someone getting shot by a hunter in the neighborhood than by someone using the range. However, this may not be the same for some of his neighbors. He discussed how the residents like to enjoy their outside properties and that it had been mentioned by a neighbor that there were bullet holes in his house. He said he would hate to see someone get shot. He stated he had seen programs on TV that had confirmed that snipers with automatic weapons had killed from one and one-half miles away. He noted there had been incidences of shooting canons off at the range. Mr. Butler stated he loved kids and that they were not issue, the concerns were more about the increased use of the range, and a major concern was allowing the use of the automatic weapons on the range. He thought limiting the use by law enforcement agencies to four days a month was appropriate and questioned why it would be necessary to have hours after dark. He made several further points and stressed how he had to earn the money he spent on special activities when growing up and he felt this was still the way it should be.

William Corbin stated he lived across from the shooting range. He stated he was not interested in guns as a hobby and interfering with people's rights on entertainment, but he believed it was more of a noise issue. He stated he appreciated the effort being made to abate the noise and he looked forward to the required improvements being made.

With no further comments being made, Mr. Rosenberger recognized Mr. Barrell who wished to make further statements.

Mr. Barrell stated that Mr. Butler had mentioned that someone had bullet holes in their house. He did not believe this was accurate and noted that a gentleman had mention bullet holes in the trees on his property. He said that was the concern that led to raising the berm, etc.

Mr. Barrell briefly discussed the sight distance and the limited number of properties that could be seen from the range area.

There being no further comments, Mr. Rosenberger closed the public hearing.

Mr. Aylor noted he had attended the Planning Commission and meetings with various parties. He believed the range was the safest place in the County to shoot a gun. He noted it was saving taxpayers dollars when the law enforcement agencies could utilize the facility. He believed the use permit process was good and that common ground had been found by which the permit could be approved. He believed if problems come up they could be considered.

Mr. Aylor moved, to approve the application with all the eleven conditions listed to include with the condition changes requested by the applicant and the addition of the language, provided by the County Attorney. Mr. Underwood seconded the motion.

Mr. Nixon received clarification on the motion and asked if the applicant was in agreement with the conditions as presented. Mr. Dodson stated he believed the requirements could be met with the extended timeframes.

Mr. Rosenberger called for voice vote.

Ayes – Aylor, Chase, Hansohn, Nixon, Rosenberger, Underwood, Walker

Motion carried 7 to 0.

#### **NEW PLANNING COMMISSION BUSINESS – PUBLIC HEARING**

#### **REVIEW OF THE CROOKED RUN AGRICULTURAL AND FORESTAL DISTRICT**

The Board of Supervisors will review the current Crooked Run Agricultural & Forestal District. The Board of Supervisors will make a determination regarding whether the District should be renewed, modified and renewed, or terminated. Districts generally run for a period of eight years. This district is located off Route 645 in the Salem Magisterial District.

Mr. McLearen, Zoning Administrator, introduced the matter for public hearing and noted the Planning Commission had considered the item on December 9, 2009. The Planning Commission concurred with the Ag/Forestal District Advisory Committee and recommends to the Board that the Crooked Run Agricultural & Forestal District be continued until its next review on January 20, 2018.

Mr. Egertson reviewed on the screen the District outline noting it contained two parcels with two owners for a total of approximately 250 acres, which exceeds the 200-acre minimum for a district. He noted it was up for its eight-year renewal and the owners had been notified of their ability to withdraw from the district and they had not expressed interest of record to do that. He stated the Planning Commission and Ag/Forestal District Advisory Committee recommended the district be renewed until January 20, 2018.

Mr. Rosenberger opened the public hearing and called for comments.

With no comments being received, Mr. Rosenberger closed the public hearing.

Mr. Underwood moved, Mrs. Hansohn seconded, to approve renewing the Crooked Run Agricultural & Forestal District until January 20, 2018.



Mr. Rosenberger called for voice vote.

Ayes – Aylor, Chase, Hansohn, Nixon, Rosenberger, Underwood, Walker

Motion carried 7 to 0.

**ADJOURNMENT**

Mrs. Hansohn moved for adjournment. The meeting adjourned at 7:56 p.m.

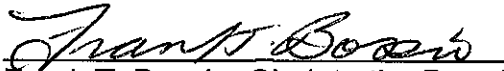


Donna B. Foster, Deputy Clerk



Brad C. Rosenberger, Chairman

Attest:



Frank T. Bossio, Clerk to the Board

Approved: February 2, 2010